

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**JENNIFER OREILLY**  
Claimant

**APPEAL NO: 13A-UI-08620-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KINSETH HOTEL CORPORATION**  
Employer

**OC: 06/09/13**  
**Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.25(35) – Non-Job Related Illness or Injury

**STATEMENT OF THE CASE:**

The employer appealed a department decision dated July 17, 2013, reference 02, that held the claimant voluntarily left employment due to pregnancy on October 4, 2012, and when she returned to work none was available. Benefits are allowed June 9, 2013. A telephone hearing was scheduled and held on September 26, 2013. The claimant did not participate. Ruth Bowen, General Manager, and Representative, Todd Richardson, participated for the employer. Employer Exhibits 1 – 8 was received as evidence.

**ISSUE:**

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant was hired on June 27, 2012, and last worked for the employer as a night auditor on October 4 2012. She was granted maternity leave beginning October 16, 2012. The customary employer practice is to allow six to eight weeks for leave.

After failing to contact claimant by telephone, the employer GM sent a certified letter to claimant on January 8, 2013 asking her intention whether she is returning to work. The notice requests claimant respond within three days. The postal service returned the letter unclaimed.

When claimant failed to return to work from maternity leave, the employer concluded she had decided to quit employment. As of the date of the filing the June 9, 2013 claim, claimant did not request a return to employment.

Claimant failed to respond to the hearing notice as shown by the department record (APLT). She had been disqualified by a separate department decision dated July 12, 2013 from her Hy-Vee employment separation. Claimant has received no benefits on this claim.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.25(35) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The administrative law judge concludes that the claimant voluntarily quit employment without good cause attributable to the employer effective June 9, 2013 due to a failure to return to work from pregnancy/maternity leave.

A leave of absence is a voluntary period of unemployment that makes an employee ineligible for benefits during this period. The employer gave claimant a reasonable period of maternity leave from October 18, 2012 until it made an inquiry on January 8, 2013 about whether she intended to return to work. She did not respond to employer telephone inquiry, certified letter and at no time did she return to work and ask for employment.

**DECISION:**

The department decision dated July 17, 2013, reference 02, is reversed. The claimant voluntarily quit without good cause attributable to the employer on June 9, 2013. Benefits are denied until the claimant has worked in and is paid wages for insured work, equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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